

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



January 14, 2002

TO: CHILDREN'S RESIDENTIAL PROGRAM ADMINISTRATOR  
CHILDREN'S RESIDENTIAL REGIONAL MANAGERS  
COUNTY LICENSING PROGRAM MANAGERS  
COUNTY LICENSING PROGRAM SUPERVISORS

SUBJECT: INTERIM TITLE 22 FOSTER FAMILY HOMES STANDARDS  
AUTHORIZED BY ASSEMBLY BILL (AB) 1695

REFERENCE: ALL-COUNTY LETTER (ACL) NO. 01-85, DECEMBER 14, 2001

This letter is a follow up to ACL NO. 01-85, December 14, 2001, which provided an overview of AB 1695. This letter transmits interim Title 22, Foster Family Home (FFH) standards and informs state and county licensing agencies of the provisions of Assembly Bill (AB) 1695, (Statutes of 2001, Chapter 653). AB 1695 was urgency legislation, which became effective October 10, 2001. The legislation ensures that California is in continuing compliance with the 1997 federal Adoption and Safe Families Act (ASFA). A major provision of AB 1695 is that California's relative caregiver approval process must employ the same core health and safety standards used to license foster family homes. AB 1695 gives the Department authority to implement the legislation through an All County Letter (ACL) or similar provisions, pending the promulgation of emergency regulations. This document and attachments meet that intent for the licensing provisions. Information related to placement issues will be issued under separate cover.

**BACKGROUND**

ASFA requires that relative homes approved for placements must meet the same standards as licensed homes. ASFA also requires a state authority to be responsible for establishing and maintaining standards for foster family homes and applying these standards to any home that receives Title IV-E funds, whether it is licensed or approved.

To implement the provisions of AB 1695, the Department is developing emergency Title 22 Foster Family Homes regulations. Pending the promulgation of emergency regulations "Interim Standards" have been developed. The Department developed the attached "Interim Standards" in conjunction with a workgroup of stakeholders, including representatives from the County Welfare Directors Association (CWDA), California Youth Connection (CYC), the Department's Children and Family Services and Legal Divisions. The "Interim Standards" are equally protective, less restrictive and more user friendly than current regulations.

## **SIGNIFICANT CHANGES**

**There is a new license-exempt category:** AB 1695 amended Health and Safety Code, Section 1505, to allow placement of a child in an approved home of a non-relative extended family member. Statute defines a non-relative extended family member as any adult caregiver who has an established familial or mentoring relationship with the child. Prior to this provision these individuals were required to be licensed.

**No certified-license-pending homes or provisional licenses for foster family homes are allowed:** ASFA clearly states that all foster homes shall meet all of the same health and safety standards before being issued a license or an approval. Therefore, ASFA does not allow provisional licenses, including “certified pending licensure.”

### **Clear distinction is made for requirements for license/approval versus placement.**

There are basic core health and safety standards that are required for both licensure and approval of foster family homes. These have been assembled from existing regulations and combined in one article. (See Attachment 1, INTERIM STANDARDS FOR FOSTER FAMILY HOMES, pending adoption of emergency regulations set forth as Title 22, Division 6, Chapter 9.5, Article 3.) After a home meets these core requirements it shall be entitled to a license or an approval. The license or approval of a home does not create an entitlement to placement, which is based on the “best interests” of the child (ren) involved.

It is California’s position that licensing and approval of homes have required the same core health and safety standards prior to issuance of a license or approval of a foster family homes since 1998. The legislative bases are found in AB 1544 (Statutes of 1997, Chapter 793) and SB 645 (Statutes of 1998, Chapter 949). Since that time, California law has required compliance with the same core health and safety standards for all foster family homes.

## **CALIFORNIA’S LICENSING/APPROVAL STANDARDS**

California’s core licensing/approval standards consist of four major areas: criminal records clearance, caregiver qualifications, safety of the physical environment and personal rights. These core health and safety requirements have not changed; however, they have undergone nonsubstantive modification to more clearly show the consistency with ASFA.

- A criminal record check, which includes a child abuse records check, is required for applicants and adults living in the home.
- Caregiver qualification standards focus on the caregiver’s ability to provide supervision for the child, their ability to meet the needs of the child, and their ability to meet the child’s needs based on others living in the home.

- Physical environment provides for the storage of weapons, poisons, medications, water safety, and a clean safe environment.
- Personal rights standards provide for safe, healthy, and comfortable accommodations, freedom from corporal punishment, ownership and use of own personal possessions, and a full statement of personal rights given to the child and foster parent at the time of placement.

AB 1695 mandates that the standards used to evaluate and grant or deny approval of a relative or non-relative extended family member's home shall be the same as the core health and safety standards for licensing foster family homes.

## **REVISIONS TO FORMER TITLE 22 REGULATIONS**

The Interim Foster Family Home Standards will eventually be contained in Title 22, California Code of Regulations, Chapter 9.5 commencing with section 89200, once they are promulgated as emergency regulations. The "Interim Standards" contain five articles instead of seven articles with corresponding changes to the Table of Contents. The articles have been renamed except for Article 1, General Requirements and Definitions. The "Interim Standards" in their entirety are assigned new section numbers except for the last two digits. For example, 87019 Criminal Record Clearance is now 89319.

In addition, the "Interim Standards" were restructured to group related former regulatory requirements for ease of use. New requirements have been added, terminology revised, unnecessary former regulations deleted and modifications made to remove non-substantive, and duplicative language. The "Interim Standards" also provide for age appropriate activities, independence and specify that children are allowed to participate in school sponsored extra-curricular activities.

### **Former Title 22 Regulations Deleted**

The following former Title 22 regulations were deleted because the regulatory action is unnecessary, no longer required, or not allowed under ASFA:

- Section 87001.1 - *Certified License Pending*
- Section 87001 - *Emergency Approval to Operate*
- Section 87025 - *Bonding*
- Section 87030 - *Provisional License*

- Section 87032 - *Term of an Initial or Renewal License*
- Section 87033 - *Application for Renewal of License*
- Section 87041 - *Denial of a Renewal License*
- Section 87064.1 - *Repealed by Manual Letter CCL-97-09, effective June 13, 1997*
- Section 87068.1 - *Admissions Procedures*
- Section 87068.4 - *Repealed by Manual Letter CCL-97-09, effective June 13, 1997*

### **New Interim Standards**

The following three new “Interim Standards” are combinations of former Title 22 regulations.

- Section 89388 - *Cooperation and Compliance* combines two current requirements into a single section with a new title.
- Section 89400 - *Licensure is not an Entitlement to Placement* clarifies existing law.
- Section 89405 - *Training Requirements* consists of itemized training requirements to assure continuity of training for all caregivers.

### **Modifications of Former Regulations**

The following less restrictive and less institutional provisions have been added to the “Interim Standards” to minimize barriers to emancipation for older children:

- Section 89201 - The term “Caregiver” is now used in place of “Licensee”
- Section 89201 - The definition of “Child” has been modified to meet the provisions of Welfare and Institutions Code 11403 that allows a child or person up to 19 years of age to remain in the home.
- Section 89201 - The definition of “Child with Special Health Care Needs” has been modified to meet the provisions of the Welfare and Institutions Code 17710(a) that allows an eligible developmentally disabled child, or person, up to 22 years of age to remain in the home.
- Section 89201 - The term “Home” is now used in place of “Facility.”

- Section 89201 and 89207 - “Non-Related Extended Family Member” is a new license-exempt classification.
- Section 89387 - No pool fencing or pool cover is required when caring for children 10 years of age or older, unless, care is provided for a child, regardless of age, that has any condition that makes the child developmentally disabled, mentally handicapped or for whom special care and supervision is required.
- Section 89372(3) - Allows for independence appropriate to the child’s age, maturity and capability according to the child’s needs and services plan or Transitional Independent Living Plan (TILP) such as children or youth having access to cleaning solutions, kitchen utensils, etc.
- Section 89379 - Allows for children to more easily participate in supervised after-school activities.
- Section 89387 - Notes the statutory provision in the Health and Safety Code that requires security window bars to have safety release devices.

### **IN-HOME INTERVIEW VERSUS COMPREHENSIVE HOME STUDY**

AB 1695 contains two separate provisions for in home interviews. These provisions are not new requirements, rather they restate current law.

- Health and Safety Code Section 1521.5 require an in-home interview to be conducted prior to licensure. The interview is to collect information regarding the prospective foster parent’s ability, readiness, and willingness to meet the varying needs of children, including hard-to-place children. The inability of a prospective parent to meet the needs of a hard to place child shall not, in and of itself, prevent a prospective parent from obtaining a foster family home license. The in-home interview shall be done by the placement agency in those counties that do not license FFHs. For counties that license FFHs, the in-home interview may be done by either the county licensing or placement agency.
- Health and Safety Code Section 1521.6 requires additional, often placement or population specific, evaluation of a licensed foster parent’s ability, readiness, and willingness to meet the varying needs of children. The Department is in the process of developing a comprehensive home study process through regulations that integrate the decision outcome of the home study. Counties should continue to use their existing comprehensive home study process pending Division 31 regulations on this matter.

## **SEPARATION OF DUTIES:**

The Memorandum of Understanding between the Department and the counties states that the county's licensing program shall be operated independent of the County's child welfare placement program. The County Director of Child Welfare Services or his/her designee shall be responsible for the independent operation of the County's licensing program from the County's child welfare placement program. Therefore, the approval process of foster family homes is a part of the child welfare placement program and is independent of the licensing program.

## **ATTACHMENTS**

The following attachments are enclosed:

### **Attachment I, "INTERIM STANDARDS FOR FOSTER FAMILY HOMES":**

These Interim Standards shall be used in place of applicable California Code of Regulations Division 6. All other regulations not inconsistent with these "Interim Standards" shall remain in effect. These "Interim Standards" shall remain in full force and effect until promulgation of emergency regulations.

**Attachment II, "FORMER TITLE 22 REGULATIONS AND INTERIM STANDARDS PENDING ADOPTION OF EMERGENCY REGULATIONS:"** The chart lists each of the former regulations with their section number, the corresponding "Interim Standard", title, section number, article title and article number along with any changes that were made to each of the regulations. This chart also shows new definitions or standards required with the corresponding section number.

If you have any questions regarding this information, please contact Stephanie Davis, Policy Manager, at (916) 322-4887, or Ms. Sharon Whitted, Analyst, Policy Development Bureau, at 327-4104.

Sincerely,

A handwritten signature in black ink that reads "Martha Lopez". The signature is fluid and cursive, with the first name "Martha" and last name "Lopez" clearly distinguishable.

MARTHA LOPEZ  
Deputy Director  
Community Care Licensing Division

Attachments